

Step-by-Step Commentary Accompanying Flowchart for Truancy Court Procedures

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Ted Wood
Assistant General Counsel
Office of Court Administration
State of Texas
E-mail: ted.wood@courts.state.tx.us
(512) 936-1183
FAX: (512) 463-1648

Box 1. School district refers child to truancy court for truant conduct.

A school district must usually refer a child to a truancy court to face an allegation of truant conduct in certain circumstances. Such circumstances exist if a child fails to attend school without excuse on a prescribed number of days. Specifically, a child must miss school on ten or more days (or parts of days) within a six-month period in the same school year. Education Code § 25.0951(a).

The school district is required to make the referral “within 10 school days of the student’s 10th absence.” *Id.*

There are exceptions to the referral requirement discussed above. These exceptions are set out in Section 25.0951(d) of the Education Code.

The school district’s referral has no set form, but is envisioned to be a written document.

Move to Box 2.

Box 2. Court forwards referral to truant conduct prosecutor.

A school district’s referral must meet certain requirements. But a truancy court receiving such a referral is not to examine the referral for defects. Rather, the truancy court is simply required to forward the referral to the truant conduct prosecutor. Family Code § 65.051.

Section 65.051 requires the court to forward the referral if the court is not required to dismiss the referral under Education Code § 25.0915. But nothing in Section 25.0915 requires the court to dismiss a referral prior to forwarding the referral to the truant conduct prosecutor. Thus, a truancy court must always forward a school district’s referral to a truant conduct prosecutor.

Family Code § 65.052 describes a truant conduct prosecutor as follows:

“In a justice or municipal court or a constitutional county court that is designated as a truancy court, the attorney who represents the state in criminal matters in that court shall serve as the truant conduct prosecutor.

Go to Box 3.

Box 3. Prosecutor promptly reviews the referral.

Upon receiving a referral from the truancy court, the truant conduct prosecutor is required to “promptly review the facts describe in [the] referral.” Family Code § 65.053(a). There is no set period of time within which the prosecutor must perform this review. The statute simply instructs the prosecutor to perform his or her review promptly. *Id.* This make sense because any petition alleging that the child has engaged in truant conduct must be filed within a short time period. Specifically, a petition must be filed no later than the 45th day after the last absence giving rise to the act of truant conduct. Family Code § 65.055.

Go to Box 4.

Box 4. Prosecutor must determine if referral complies with Education Code § 25.0915.

As part of his or her review, the prosecutor must determine whether the referral was made in compliance with Education Code, Section 25.0915. Family Code § 65.053(c). A referral complies if the referral:

- (1) is not for a student whose truancy is determined by the school to be the result of: (a) pregnancy; (b) being in the state foster program; (c) homelessness; or (d) being the principle income earner for the student’s family;
- (2) specifies whether the student is eligible for (or receives) special education services under Subchapter A of Section 29 of the Education Code;
- (3) is accompanied by a statement from the student’s school certifying that the school applied the “truancy prevention measures” adopted under Subsection (a) or (a-4) of Education Code, Section 25.0915; and
- (4) is accompanied by a statement from the student’s school certifying that the truancy prevention measures failed to meaningfully address the student’s school attendance.

Advance to Box 10.

Box 5. Truancy court directs the issuance of a summons to: (1) the child; (2) the child’s parent, guardian, or custodian; (3) the child’s guardian ad litem, if any; and (4) any other proper or necessary party. The truancy court may endorse on the summons an order directing the person having physical custody or control of the child to bring the child to the hearing.

The statute requiring a summons to be issued to the persons set out above is Family Code § 65.057(a), (c). The summons must require the person to appear before the court at the place, date, and time of the adjudication hearing. Family Code § 65.057(b). At the adjudication hearing, the person summoned will be required to answer the allegations of the petition. *Id.* A copy of the petition must accompany the summons. *Id.*

“The truancy court may endorse on the summons an order directing the person having the physical custody or control of the child to bring the child to the hearing.” Family Code § 65.057(c).

Go to Box 6.

Box 6. Each summons issued by the truancy court is to be served personally or by registered or certified mail at least five days before the date of the adjudication hearing.

See Family Code § 65.058(a). Service of the summons may be made by any suitable person under the direction of the court. Family Code § 65.058(b).

“A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing.” Family Code § 65.057(d).

Go to Box 7.

Box 7. The child may answer the petition before the hearing.

“After the petition has been filed, the child may answer, orally or in writing, the petition at or before the commencement of the hearing.” Family Code § 65.060.

There is no set way in which the child is to answer. But a plea of guilty or not guilty would not be appropriate since the case is not criminal. A child can “admit” or

“deny” the allegations in the petition. Another possible way to plead would be “true” or “not true.”

Advance to Box 14.

Box 8. The court may proceed with the adjudication hearing even in the absence of a person (other than the child) who is required to attend the hearing.

“If a person, other than the child, required to appear under this section [Family Code § 65.057] fails to attend a hearing, the truancy court may proceed with the hearing.” Family Code § 65.057(b).

Go to Box 15.

Box 9. An attorney may be retained to represent the child. However, there is no requirement that an attorney be appointed to represent the child.

“A child may be represented by an attorney in a case under this chapter. Representation by an attorney is not required.” Family Code § 65.059(a).

Go to Box 17.

Box 10. Does prosecutor find that referral complies?

If yes, then go to Box 11. If no, then go to Box 18.

Box 11. Prosecutor must determine whether to file petition.

The decision to file a petition that complies with Education Code § 25.0915 lies entirely with the prosecutor. See Family Code § 65.053(b). The decision is a matter of prosecutorial discretion.

Go to Box 19.

Box 12. Would the filing be within 45-day limitations period?

“A petition may not be filed after the 45th day after the date of the last absence giving rise to the act of truant conduct.” Family Code § 65.055.

If yes, then go to Box 13. If no, then go to Box 20.

Box 13. Prosecutor files petition alleging truant conduct with truancy court.

A petition for an adjudication of a child for truant conduct initiates an action of the state against a student who has allegedly engaged in truant conduct. Family Code § 65.054(a). The form and contents of the petition are detailed in Family Code § 65.054 as follows:

- (b) The proceedings shall be styled “In the matter of _____, Child,” identifying the child by the child’s initials only.
- (c) The petition may be on information and belief.
- (d) The petition must state:
 - (1) with reasonable particularity the time, place, and manner of the acts alleged to constitute truant conduct;
 - (2) the name, age, and residence address, if known, of the child who is the subject of the petition;
 - (3) the names and residence addresses, if known, of at least one parent, guardian, or custodian of the child and of the child’s spouse, if any; and
 - (4) if the child’s parent, guardian, or custodian does not reside or cannot be found in the state, or if their places of residence are unknown, the name and residence address of any known adult relative residing in the county or, if there is none, the name and residence address of the known adult relative residing nearest to the location of the court.

No filing fee is required. Family Code § 65.054(e).

Go to Box 21.

Box 14. Court holds hearing that generally must be open to the public.

The law envisions a hearing in every case involving allegations of truant conduct. See Family Code §§ 65.056, 65.062, 65.101. Section 65.101 explicitly states that “[a] child may be found to have engaged in truant conduct only after an adjudication hearing

conducted in accordance with the provisions of [Chapter 65].” This means that a child may not simply plead true to the allegations and avoid showing up in court.

As a general rule, truancy courts are required to be open to the public. There is an exception to this general open-court rule if the court determines that the public should be excluded. Family Code § 65.015(a).

Go to Box 22.

Box 15. Does child’s parent or guardian appear?

If yes, then go to Box 16. If no, then go to Box 23.

Box 16. Does court feel the child’s parent or guardian is capable and willing to make decisions in the best interest of the child in regard to school attendance?

If yes, then go to Box 9. If no, then go to Box 23.

Box 17. Court may appoint an attorney for child if court determines such appointment is in best interest of child. Court may order parent or other responsible person to pay if parent or other person has sufficient financial resources.

“A child is not entitled to have an attorney appointed to represent the child, but the court may appoint an attorney if the court determines it is in the best interest of the child.” Family Code § 65.059(b).

“The court may order a child’s parent or other responsible person to pay for the cost of an attorney appointed under this section if the court determines that the person has sufficient financial resources.” Family Code § 65.059(c).

Move to Box 28.

Box 18. Prosecutor may not file truant conduct petition.

“The prosecutor may not file a petition for an adjudication of a child for truant conduct if the referral was not made in compliance with Section 25.0915, Education Code.” Family Code § 65.053(c).

Go to Box 24.

Box 19. Does prosecutor decide to file petition?

If yes, then go to Box 12. If no, then go to Box 24.

Box 20. Prosecutor may not file petition.

“A petition may not be filed after the 45th day after the date of the last absence giving rise to the act of truant conduct.” Family Code § 65.055.

Go to Box 24.

Box 21. Truancy court sets a date and time for an adjudication hearing. The hearing date must not be on or before the 10th day after the date the petition is filed.

See Family Code § 65.056(a).

Go to Box 5.

Box 22. If the truancy court is a court of record, then the hearing must be recorded. If the truancy court is not a court of record, then the hearing is not to be recorded.

“The proceedings in a truancy court that is a court of record must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.” Family Code § 65.016(b). “The proceedings in a truancy court that is not a court of record may not be recorded.” Family Code § 65.016(a).

Move to Box 26.

Box 23. Court may appoint a guardian ad litem for the child. Court may order a child's parent or other person responsible to support the child to reimburse the county or the city for the cost of the guardian ad litem. Such an order may be made only if the court determines that the parent or other responsible person has sufficient resources to offset the cost either wholly or partly.

"If a child appears before the truancy court without a parent or guardian, or it appears to the court that the child's parent or guardian is incapable or unwilling to make decisions in the best interest of the child with respect to proceedings under this chapter, the court may appoint a guardian ad litem to protect the interests of the child in the proceedings." Family Code § 65.061(a).

"The court may order a child's parent or other person responsible to support the child to reimburse the county or municipality for the cost of the guardian ad litem. The court may issue the order only after determining that the parent or other responsible person has sufficient financial resources to offset the cost of the child's guardian ad litem wholly or partly." Family Code § 65.061(c).

Please note that an attorney for a child may also be the child's ad litem. Family Code § 65.061(b). "A law enforcement officer, probation officer, or other employee of the truancy court may not be appointed as a guardian ad litem." Family Code § 65.061(b).

Go to Box 9.

Box 24. Prosecutor informs truancy court and school district.

"If the prosecutor decides not to file a petition requesting an adjudication, the prosecutor shall inform the truancy court and the school district of the decision." Family Code § 65.053(b).

Go to Box 33.

Box 25. The court must reschedule the hearing.

“The child must be personally present at the adjudication hearing. The truancy court may not proceed with the adjudication hearing in the absence of the child.” Family Code §65.062(a).

Return to Box 21.

Box 26. Is the child present?

“The child must be personally present at the adjudication hearing. The truancy court may not proceed with the adjudication hearing in the absence of the child.” Family Code §65.062(a).

If yes, then go to Box 27. If no, then go to Box 25.

Box 27. Parents and guardians are required to attend the adjudication hearing.

“A parent or guardian of a child and any court-appointed guardian ad litem of a child is required to attend the adjudication hearing.” Family Code § 65.062(b). This rule “does not apply to: (1) a person for whom, for good cause shown, the court excuses attendance; (2) a person who is not a resident of this state; or (3) a parent of a child for whom a managing conservator has been appointed and the parent is not the conservator of the child.” Family Code § 65.062(c).

Go to Box 8.

Box 28. Child orally answers the petition if the child has not already answered. If the child does not answer, a general denial of the alleged conduct is assumed.

“After the petition has been filed, the child may answer, orally or in writing, the petition at or before the commencement of the hearing.” Family Code § 65.060.

There is no set way in which the child is to answer. But a plea of guilty or not guilty would not be appropriate since the case is not criminal. A child can “admit” or “deny” the allegations in the petition. Another possible way to plead would be “true” or “not true.”

If for some reason the child does not enter a plea, the court is to treat the non-response as a general denial.

Advance to Box 34.

Box 29. Does child waive the right to a jury trial?

If yes, then go to Box 30. If no, then go to Box 35.

Box 30. State puts on evidence. Child puts on evidence. (Rules of evidence generally do not apply.) Both sides argue. Judge (or jury) must determine whether child has (beyond a reasonable doubt) engaged in truant conduct.

The State has the burden of proof to show that the child engaged in truant conduct. The burden of persuasion is “beyond a reasonable doubt” as in criminal cases. See Family Code § 65.010.

As the party with the burden of proof, the State introduces its evidence first. The child is the next to introduce evidence. Both sides argue at the end.

The factfinder (typically the judge, but possibly the jury) has a responsibility to make just one determination. That determination is whether the child engaged in truant conduct. Family Code § 65.101(f) (“At the conclusion of the adjudication hearing, the court or jury shall find whether the child has engaged in truant conduct.”) The finding of the factfinder must be based on competent evidence admitted at the hearing. *Id.*

Go to Box 31.

Box 31. Is child found to have engaged in truant conduct?

If yes, then go to Box 32. If no, then go to Box 36.

Box 32. Court must issue a judgment finding the child has engaged in truant conduct.

“If the court or jury finds that the child did engage in truant conduct, the court shall proceed to issue a judgment finding the child has engaged in truant conduct”
Family Code § 65.101(h).

Go to Box 37.

Box 33. Court must “order the destruction of records relating to allegations of truant conduct that are held by the court or by the prosecutor.”

“A truancy court shall order the destruction of records relating to allegations of truant conduct that are held by the court or by the prosecutor if a prosecutor decides not to file a petition for an adjudication of truant conduct after a review of the referral under Section 65.053.” Family Code § 65.203.

Stop.

Box 34. Court must explain six things at the outset of the hearing: (1) the allegations made against the child; (2) the nature and possible consequences of the proceedings; (3) the child's privilege against self-incrimination; (4) the child's right to trial and confrontation of witnesses; (5) the child's right to representation by an attorney if child is not represented; and (6) the child's right to a jury trial.

These explanations are required by Family Code § 65.101. An adjudication hearing should never be conducted without the truancy court explaining these six things.

Go to Box 29.

Box 35. Hearing is rescheduled for jury trial.

A child accused of engaging in truant conduct has the right to a jury trial. Family Code §§ 65.007, 65.101(b)(6), 65.101(c).

The number of jurors is set at six. Family Code § 65.007(b). Both sides are entitled to three peremptory challenges. *Id.* There is no fee for a jury. Jury verdicts must be unanimous. Family Code § 65.101(c).

If the child declines to waive his or her right to a jury, then the court will have to stop the hearing and reschedule the case. Once the case is rescheduled for a jury trial, the hearing process starts again.

Return to Box 14.

Box 36. Court must dismiss the case with prejudice.

"If the court or jury finds that the child did not engage in truant conduct, the court shall dismiss the case with prejudice." Family Code § 65.101(g).

Go to Box 45.

**Box 37. Court must order appropriate remedies as authorized by
Section 65.103.**

“If the court or jury finds that the child did engage in truant conduct, the court shall . . . order the remedies the court finds appropriate under Section 65.103. Family Code § 65.101(h).

The court is required to orally pronounce the court’s remedial actions. Family Code, § 65.102. The remedial actions are also to be entered in a written order. *Id.*

Section 65.103 lists the possible remedies. The entire statute is set out below:

Sec. 65.103. REMEDIAL ORDER. (a) A truancy court may enter a remedial order requiring a child who has been found to have engaged in truant conduct to:

- (1) attend school without unexcused absences;
- (2) attend a preparatory class for the high school equivalency examination administered under Section 7.111, Education Code, if the court determines that the individual is unlikely to do well in a formal classroom environment due to the individual’s age;
- (3) if the child is at least 16 years of age, take the high school equivalency examination administered under Section 7.111, Education Code, if that is in the best interest of the child;
- (4) attend a nonprofit, community-based special program that the court determines to be in the best interest of the child, including:
 - (A) an alcohol and drug abuse program;
 - (B) a rehabilitation program;
 - (C) a counseling program, including a self-improvement program;
 - (D) a program that provides training in self-esteem and leadership;
 - (E) a work and job skills training program;
 - (F) a program that provides training in parenting, including parental responsibility;
 - (G) a program that provides training in manners;
 - (H) a program that provides training in violence avoidance;
 - (I) a program that provides sensitivity training; and
 - (J) a program that provides training in advocacy and mentoring;

- (5) complete not more than 50 hours of community service on a project acceptable to the court; and
 - (6) participate for a specified number of hours in a tutorial program covering the academic subjects in which the child is enrolled that are provided by the school the child attends;
- (b) A truancy court may not order a child who has been found to have engaged in truant conduct to:
 - (1) attend a juvenile justice alternative education program, a boot camp, or a for-profit truancy class; or
 - (2) perform more than 16 hours of community service per week under this section.
- (c) In addition to any other order authorized by this section, a truancy court may order the Department of Public Safety to suspend the driver's license or permit of a child who has been found to have engaged in truant conduct. If the child does not have a driver's license or permit, the court may order the Department of Public Safety to deny the issuance of a license or permit to the child. The period of the license or permit suspension or the order that the issuance of a license or permit be denied may not extend beyond the maximum time period that a remedial order is effective as provided by Section 65.104.

Please note that the court always determines the remedies to be ordered. "The jury is not involved in ordering remedies for a child who has been adjudicated as having engaged in truant conduct." Family Code § 65.101(h).

Go to Box 38.

Box 38. Court may order parents and others to take certain actions.

If a child is found to have engaged in truant conduct, then the truancy court may issue certain orders affecting parents and others. There are seven specific things that may be ordered. Under Family Code § 65.105(a), the truancy court may:

- (1) order the child and the child's parent to attend a class for students at risk of dropping out of school that is designed for both the child and the child's parent;
- (2) order any person found by the court to have, by a willful act or omission, contributed to, caused, or encouraged the child's truant conduct to do any act

- that the court determines to be reasonable and necessary for the welfare of the child or to refrain from doing any act that the court determines to be injurious to the child's welfare;
- (3) enjoin all contact between the child and a person who is found to be a contributing cause of the child's conduct, unless that person is related to the child within the third degree by consanguinity or affinity, in which case the court may contact the Department of Family and Protective Services , if necessary;
 - (4) after notice to, and a hearing with, all persons affected, order any person living in the same household with the child to participate in social or psychological counseling to assist in the child's rehabilitation;
 - (5) order the child's parent or other person responsible for the child's support to pay all or part of the reasonable costs of treatment programs in which the child is ordered to participate if the court finds the child's parent or person responsible for the child's support is able to pay the costs;
 - (6) order the child's parent to attend a program for parents of students with unexcused absences that provides instruction designed to assist those parents in identifying problems that contribute to the child's unexcused absences and in developing strategies for resolving those problems; and
 - (7) order the child's parent to perform not more than 50 hours of community service with the child.

Please note that the person subject to an order is entitled to a hearing before an order affecting the person is entered. Family Code § 65.105(b). But while the person is entitled to a hearing, there is no requirement that the court hold a hearing if the person does not exercise his or her entitlement.

Go to Box 39.

Box 39. Court may order child or other person to pay \$50 court cost if person can afford to pay.

"If a child is found to have engaged in truant conduct, the truancy court, after giving the child, parent, or other person responsible for the child's support a reasonable opportunity to be heard, shall order the child, parent, or other person, if financially able to do so, to pay a court cost of \$50 to the clerk of the court." Family Code § 65.107(a).

“The court’s order to pay the \$50 court cost is not effective unless the order is reduced to writing and signed by the judge. The written order to pay the court cost may be part of the court’s order detailing the remedial actions in the case.” Family Code § 65.107(b).

Please note that the funds collected may only be used to offset the costs of the operation of the truancy court. Family Code § 65.107(d).

Go to Box 40.

Box 40. Court must advise child and others of right to appeal.

“After pronouncing the court’s remedial actions, the court shall advise the child and the child’s parent, guardian, or guardian ad litem of: (1) the child’s right to appeal, as detailed in Subchapter D [Sections 65.151 – 65.153].” Family Code § 65.102.

Go to Box 41.

Box 41. Court must advise child and others of procedures for sealing record.

“After pronouncing the court’s remedial actions, the court shall advise the child and the child’s parent, guardian, or guardian ad litem of: . . . (2) the procedures for the sealing of the child’s records under Section 65.201. Family Code § 65.102.

Go to Box 42.

Box 42. Hearing Concludes.

Go to Box 43.

Box 43. Both a motion for new trial and a hearing to modify remedies are possible.

Truancy judges should be aware that changes to the court's initial order are possible through both of these mechanisms.

Motions for new trial are authorized by Family Code § 65.109. The statute announces that Rules 505.3(c) and (e) of the Texas Rules of Civil Procedure apply to motions for new trial.

Family Code § 65.108 deals with hearings to modify remedies. Subsection (c) reads as follows:

“A hearing to modify a remedy imposed by the court shall be held on the petition of the state, the court, or the child and the child's parent, guardian, guardian ad litem, or attorney. Reasonable notice of a hearing to modify disposition shall be given to all parties.”

Go to Box 44.

Box 44. Does child comply with truancy court orders?

If yes, then go to Box 53. If no, then go to Box 46.

Box 45. Records concerning the case are not destroyed or sealed.

There is no statutory directive that courts destroy records of cases in which children have been found to not have engaged in truant conduct. Records in these situations are treated differently than records of school district referrals on which truant court prosecutors have decided not to file petitions. See Family Code § 65.203.

Also, no statute authorizes a child who has been found to not have engaged in truant conduct to seek a sealing order. Only children who have been found to have engaged in truant conduct and have complied with the court-ordered remedies may have their records sealed. See Family Code § 65.201 (although the child must be at least 18).

Accordingly, there is no further action to be taken at this point. (The records of these cases are generally confidential under Family Code § 65.202.) There are a few persons or entities that can access truancy case records even though the records are generally confidential. See discussion under Box 53.

The truancy court's involvement with the case is at an end.

Stop.

Box 46. Court may set a hearing to determine if child is in contempt of court.

"If a child fails to obey an order issued by a truancy court under Section 65.103(a) [court's remedial order], or a child is in direct contempt of court, the truancy court, after providing notice and an opportunity for a hearing, may hold the child in contempt of court" Family Code § 65.251(a).

Please note that this is the same procedure that is to be used in a situation involving direct contempt.

Go to Box 47.

Box 47. Does court set a hearing?

There is no requirement that a court entertain contempt charges against a child. This is an option.

If the court chooses not to entertain contempt charge, child is still under obligation to obey the court's remedial order. Whether this will happen remains to be seen

If yes, then go to Box 48. If no, then go to Box 55.

Box 48. Does court find child to be in contempt?

If the court finds the child to be in contempt, then the court can take certain actions. These actions are discussed in Box 49.

If the court does not find the child to be in contempt, the child has another chance to comply with the court's remedial orders.

If yes, then go to Box 49. If no, then go to Box 55.

Box 49. Court may order child to pay fine of up to \$100.

A truancy court can make two possible orders finding a child to be in contempt of court. The first is to order the child to pay a fine of up to \$100. Family Code § 65.251(a)(1).

Go to Box 50.

Box 50. Court may order DPS to suspend child's driver's license or permit.

A truancy court can make two possible orders finding a child to be in contempt of court. The second is to order the Department of Public Safety [DPS] to suspend the child's driver's license or permit. Family Code § 65.251(a)(2). If the child does not have a license or permit, the court may order DPS to deny the issuance of a license or permit. These orders are meant to encourage the child to comply with the court's remedial orders. When the child fully complies, the DPS suspensions (and non-issuances) are no longer to be kept in effect.

Go to Box 51.

Box 51. Has child been held in contempt two or more times previously?

If yes, then go to Box 52. If no, then go to Box 55.

Box 52. Court may refer child to juvenile probation department.

“If a child fails to obey an order issued by a truancy court under Section 65.103(a) [court’s remedial order] or a child is in direct contempt of court and the child has failed to obey an order or has been found in direct of contempt of court on two or more occasions, the truancy court, after providing notice and an opportunity for a hearing, may refer the child to the juvenile probation department as a request for truancy intervention, unless the child failed to obey the truancy order or was in direct contempt of court while 17 years of age or older.” Family Code § 65.251(b).

The procedures within (and the options available to) the juvenile probation department and the juvenile court are fully described in Sections 65.251 and 65.252 of the Family Code. Those procedures will not be detailed here. Suffice it to say that the result of the referral is often an order of the juvenile court that the child continue to obey the truancy court’s remedial orders.

This flowchart does not detail the procedures involved in holding a parent or person other than the child in contempt. These procedures are outlined in Family Code, Sections 65.253 through 65.259.

Go to Box 55.

Box 53. Child is eligible, upon turning 18, to move to have case records sealed.

Upon turning 18, a child who has been found to have engaged in truant conduct may have the records in his or her case sealed. Family Code § 65.201(a). The records in the case include all records held by the court, the truant conduct prosecutor, and the school district. Family Code § 65.201(a). The records may be sealed only if the child has complied with the remedies ordered by the truancy court. Family Code § 65.201(c).

The following subsections of Section 65.201 provide important details concerning a record that is sealed:

(d) All, index references to the records of the truancy court that are ordered sealed shall be deleted not later than the 30th day after the date of the sealing order.

(e) A truancy court, clerk of the court, truant conduct prosecutor, or school district shall reply to a request for information concerning a child's sealed truant conduct case that no record exists with respect to the child.

(f) Inspection of the sealed records may be permitted by an order of the truancy court on the petition of the person who is the subject of the records and only by those persons named in the order.

(g) A person whose records have been sealed under this section is not required in any proceeding or in any application for employment, information, or licensing to state that the person has been the subject of a proceeding under this chapter. Any statement that the person has never been found to have engaged in truant conduct may not be held against the person in any criminal or civil proceeding.

Please note that the records of truancy cases are generally confidential under Family Code § 65.202. No sealing order is necessary to make the cases generally confidential. There are a few persons or entities that can access truancy case records even though the records are generally confidential. These persons and entities are:

- (1) the judge of the truancy court, the truant conduct prosecutor, and the staff of the judge and prosecutor;
- (2) the child or an attorney for the child;
- (3) a governmental agency if the disclosure required or authorized by law;
- (4) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- (5) the Texas Department of Criminal Justice and the Texas Juvenile Justice Department for the purpose of maintaining records or recidivism and for diagnosis and classification;
- (6) the agency; or

(7) with leave of the truancy court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Go to Box 56.

Box 54. Court's involvement with the case ends.

Stop.

Box 55. Child has another chance to comply with truancy court's remedial order.

Return to Box 44.

Box 56. Upon the child's 21st birthday, sealed records may be destroyed upon child's motion or upon court's own motion. Destruction can occur only if the child has not been convicted of a felony.

"On or after the fifth anniversary of a child's 16th birthday, on the motion of the child or on the truancy court's own motion, the truancy court may order the destruction of the child's records that have been sealed under this section if the child has not been convicted of a felony." Family Code § 65.201(h).

Go to Box 54.